

MEMORANDUM OF AGREEMENT
between
SHELBY COUNTY BOARD OF EDUCATION
and
THE UNIVERSITY OF MEMPHIS
(University Middle School)

This Memorandum of Agreement ("MOA") is being entered into by and between the Shelby County Board of Education d/b/a Shelby County Schools ("Board") and The University of Memphis ("University"), collectively referred to as the "Parties."

WHEREAS, the University is a public research university in Shelby County, Tennessee that has a commitment to teacher training and education;

WHEREAS, Board is a student-first public school district in Shelby County, Tennessee;

WHEREAS, University and Board, working together, recognize that they can have a greater impact in the lives of students located within the geographic jurisdiction of the Board and establish a model middle school that serves as a laboratory school for teacher training and research;

WHEREAS, Tennessee state law (Tenn. Code Ann. § 49-8-105) allows the University to maintain a training school for practice teachers and to contract with Board for such training school;

WHEREAS, the Parties wish to define their relationship toward this goal;

NOW THEREFORE, in consideration of the above-stated premises and the mutual promises made hereinafter, the Parties agree to the following:

I. General Structure and Control of School.

- a. University will operate a middle school, named **University Middle**, comprised of grades 6-8 on the University's campus. Operation of **University Middle** shall occur in compliance with all applicable state and federal laws as well as Tennessee State Board of Education requirements.
- b. **University Middle** will be operated in accordance with Tenn. Code Ann. § 49-8-105 with the mission of creating a model laboratory school for teacher training and educational research.
- c. Per Tenn. Code Ann. § 49-8-105(b), the control of **University Middle** shall be wholly under the direction of the Board of Trustees of University, acting through the President of the University.
- d. **University Middle** shall be allowed to adopt and adhere to Board policies as set forth in the Shelby County School's Student-Parent Handbook, including utilization of the processes and procedures set forth therein.

II. Enrollment.

- a. Student enrollment shall be subject to attendance and conduct qualifications to be established by **University Middle**. For purposes of this MOA, a "qualified student" is a student who has met two requirements for enrollment: (i) Satisfactory Attendance (i.e. the student has fewer than 15 combined unexcused absences and tardies or early dismissals

in the prior school year) and (ii) Satisfactory Conduct (i.e. the student has received no conduct grade below Satisfactory in the prior school year). Students who do not meet one or both of these requirements will be required to submit a letter of explanation, which may come from any teacher, including home support teachers (e.g., CLUE, Art, Special Education), or a school administrator, outlining the circumstances that prevented the student from meeting the enrollment requirements and providing any other information requested by **University Middle**. Letters will be evaluated by a committee made up of at least the Director, one (1) individual chosen by the Director who is not employed by **University Middle**, the Board's Chief Academic Officer (or his or her designee), and up to two (2) individuals chosen by the Board's Chief Academic Officer (or designee), with the exception of the initial year when University will execute these duties.

- b. **University Middle** will take all reasonable steps to ensure the diversity of its student population, including demonstrating proactive measures to recruit students from diverse backgrounds and with diverse abilities and skills. As a starting strategy towards this end, **University Middle** will adopt the following aspirational goals to guide enrollment:
 - i. 1/3 of available seats for qualified students whose parents are full-time faculty and staff of University;
 - ii. 1/3 of available seats for qualified students residing within two (2) miles of **University Middle**; and
 - iii. 1/3 of available seats for qualified students not residing within two (2) miles of **University Middle** but within the geographic jurisdiction of Board.
- c. First preference shall be given to: qualified students whose parents are full-time faculty and staff of University; siblings of current students of **University Middle**; and 5th grade graduates of Campus School. However, the number of qualified students given first preference shall be analyzed every three (3) years relative to the aspirational 1/3-1/3-1/3 enrollment goals and the overarching diversity goal listed in subsection (b) above, and, if shown detrimental to these goals, reconsidered in cooperation with SCS. For all remaining seats, in the event that the number of qualified students exceeds available seats as described above, decisions will be made by lottery.
- d. Student recruitment and enrollment decisions shall be made in a nondiscriminatory manner and without regard to race, color, national origin, sex, religion, ancestry, disability or need for special education services.

III. Curriculum and Instruction.

- a. Students of **University Middle** shall be taught all required curriculum and course work according to standards prescribed by the Tennessee State Board of Education for the Tennessee public school system. Said curriculum and course work will be research-based and designed to achieve the most effective strategies for instruction.
- b. As the students served by **University Middle** would otherwise be served by Board, Board retains legal responsibility as the local educational agency under 20 U.S.C. § 1401 et seq. and Tenn. Code Ann. § 49-10-101 et seq.
 - i. **University Middle** and Board will work collaboratively to identify students with disabilities, determine appropriate SPED services as necessary, develop IEPs, and deliver a free and appropriate education to such students enrolled in **University Middle** with assistance from Board. Board shall provide SPED services, including related staffing, to students identified in this subparagraph.
- c. **University Middle** will collaborate and cooperate with Board in providing data necessary for the reporting of educational progress and assessments or to fulfill state or federal requirements. **University Middle** will be held to the same standards of performance accountability as all other Board-managed schools.

- d. Board will provide speech and English Language Learners (ELL) services, including related staffing, to applicable students requiring such services.

IV. Operations.

- a. University will provide facilities for the operation of **University Middle**. University will be responsible for locating and leasing/buying appropriate facilities at its sole expense.
- b. University shall be responsible for the maintenance, improvement and repairs of **University Middle** facilities, and shall provide appropriate custodial services for **University Middle** at its sole expense.
- c. University shall be responsible for the business operations of **University Middle**, including, but not limited to and subject to exceptions contained herein, procurement, human resources support, legal services, payroll for University employed staff, marketing, development (fundraising) and audit.
- d. Board will facilitate, as necessary, **University Middle's** purchase and procurement of information technology ("IT") equipment and services, which IT equipment and services shall be paid for in accordance with **University Middle's** budget at **University Middle's** sole cost and expense, including, but not limited to, wireless/broadband capabilities for **University Middle**; telephone service; and all hardware associated with telephone and wireless/broadband technology. For purposes of this subparagraph, "facilitate" may include, but is not limited to, permitting **University Middle** to "piggyback" on an existing contract for goods and services procured by Board.
- e. Board shall provide technology-related services to **University Middle**, including, but not limited to, PowerSchool access, Teacher Effectiveness Measure (TEM) access, troubleshooting, and website and network design.
- f. Board shall provide cafeteria services, including staffing, for **University Middle** sufficient to meet the nutritional needs of the students and in accordance with federal and state laws.
- g. University shall provide parking for Board employees performing services for **University Middle** in accordance with University policy.
- h. **University Middle** shall be solely responsible, at its discretion, for providing any student transportation services and shall follow all applicable state and federal laws, as well as all rules and regulations governing school transportation as promulgated by the Tennessee State Board of Education. Board shall be responsible for providing transportation services to students requiring such services as provided in the students' IEPs, but shall not be responsible for providing any other transportation services for **University Middle** students.

V. Financial Obligations.

- a. Pursuant to Tenn. Code Ann. § 49-8-105, University shall be entitled to and shall receive all state, federal and local funds received by Board as a result of this contract for the operation of **University Middle**, including per capita allocations, equalization funds, capital outlay funds, textbook funds, and any other funds that may be allocated for the operation of public schools in the State of Tennessee. Specifically, Board will use the following formula for purposes of calculating the annual funding awarded: Board will provide per pupil funding to University for operation of **University Middle** in an amount equal to the amount generated by the State of Tennessee's Basic Education Program (BEP) funding formula.
- b. **University Middle** will be responsible for using the allocated funding for operation of the school, including, but not limited to, staffing, curriculum and programming with exceptions as specifically designated herein.

- c. Any county-wide special funding for academic support (i.e. technology, supplies to support district and state requirements) made available to all Board schools shall be made available to **University Middle** within eligibility requirements.
- d. University will comply with Tenn. Code Ann. § 49-2-112. University will provide Board's Chief Financial Officer semi-annual reports for the periods ending December 31 and June 30 of each year that account for expenditures of the funding allocations. Additionally, University will provide the prior-year audited financial reports by December 31 of each fiscal year. Expenditure reports, with supporting detail, will be due within forty-five (45) days of period end. University and Board will meet before March 1 of each fiscal year period to discuss the staffing and funding allocation that will be recommended for **University Middle** in the Board's next fiscal year budget. University will determine, based on the proposed funding, whether and how it will continue operation of **University Middle**. If University determines that it can continue operation of **University Middle** based on the proposed funding allocation, this MOU will be amended consistent with the agreed-to funding.

VI. Personnel.

- a. University will employ the administrative, instructional and support staff of **University Middle**, subject to exceptions designated herein. University shall be responsible for salaries, assignment, supervision, retention, promotion, discharge and control of such employees, and shall be solely responsible for salaries and associated benefits.
- b. The Parties acknowledge the unique nature of this MOA and thus further agree as follows:
 - i. Dismissal and discipline of **University Middle** employees compensated by University shall be solely within the discretion and authority of University.
 - ii. Instructional staff employed by the University shall not be subject to Teachers' Tenure, Tenn. Code Ann. § 49-5-501 et seq., shall not accrue or be eligible for tenure under said statute while employed by University, and, in the event of said instructional staff's separation from employment with **University Middle** to accept a teaching position at a school in the Board's system, shall not be entitled to service credit for purposes of establishing tenure eligibility.
 - iii. Instructional staff employed by University shall be given the same priority for transfers to Board according to all years of experience at **University Middle**.
- c. Board will provide staffing, at its sole expense, for cafeteria services and special education services and programs, including, but not limited to, gifted education teachers, resource teachers, special education, speech therapists, nurses, physical therapists and one-on-one educational assistants.
- d. All Board and **University Middle** employees, appointees, or agents who come into contact with students as part of this MOA must submit to a background check, in a manner prescribed by Board (which manner is required by Tenn. Code Ann. § 49-5-413). Any non-**University Middle** personnel associated with the program will be screened at **University Middle**'s expense. **University Middle** shall not permit persons to provide services to students under this MOA if any such person does not meet the standards of Tenn. Code Ann. § 49-5-413 and Board's hiring standards concerning criminal background employee history checks. Board will provide its hiring standards concerning criminal background checks to **University Middle** in writing, and will provide **University Middle** with written notice of any changes in such standards. Failure to comply with this provision shall be cause for termination of this MOA as provided for under applicable Board policy.
- e. **University Middle** employees who are qualified under state law to participate in the Tennessee Consolidated Retirement System ("TCRS") will become and/or remain part of

TCRS or any successor governmental retirement system. Said employees who separate from employment with **University Middle** to accept a teaching position at a school in the Board's system shall be entitled to receive appropriate service credit for the purpose of establishing salary and retirement service credit under the TCRS system. **University Middle** will be responsible for providing any retirement benefits for **University Middle** employees who do not qualify for TCRS.

VII. Research and Proprietary Works.

- a. As a laboratory school, University shall allow inter-visitation and observation of its classrooms and will share developed best practices with Board. Individuals who participate in inter-visitation and observation activities as described here shall be subject to and must successfully complete the background check process described in this MOA.
- b. Board acknowledges that University owns and shall own all existing, and hereafter created, copyrights and other intellectual property rights with respect to all works of authorship, inventions and work product, including instructional materials, training materials, curriculum and lesson plans, and any other materials, teaching methodologies, school management methodologies, and all improvements, modifications, and derivative works thereof that are created, invented or developed by University or **University Middle** employees, agents or subcontractors employed or retained by University.

VIII. Records and Audits.

University shall make, keep as the same and accrue full and complete books, documents, accounting records and other evidence, that specifically relate to this MOA, in accordance with generally accepted accounting principles. University shall retain such records, and shall make same available to Board, upon reasonable request, during the term of this MOA, and for a minimum period of three (3) full years after completion of the contract obligations or from the date of final payment under this MOA, whichever is later. In the event any litigation, claim or audit is instituted prior to the expiration of the required three-year retention period, such records shall be retained until such litigation, claim or audit finding has been resolved. Copies of said records shall be furnished to Board upon request. Upon reasonable notice, University shall permit Board, any other governmental entity, any agency participating in the funding of this MOA, or any of their duly authorized representatives, to enter **University Middle's** offices, during regular business hours, to interview employees and to inspect and/or copy said records and books of accounts together with any and all documents pertaining hereto that may be kept, maintained or possessed by **University Middle**. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places.

VII. General Terms and Conditions.

- a. This Agreement shall be effective for a period of five (5) years from the date of execution. Either party may terminate this Agreement for convenience by giving at least one (1) full school year notice to the other party. If it is determined that University cannot continue operation of **University Middle**, University may at its option terminate this Agreement. Further, either party may terminate this Agreement in the event sufficient funds are not budgeted and/or appropriated by their respective governing bodies or the State of Tennessee.
- b. Upon expiration or termination of this Agreement for any reason, the Parties agree to cooperate in good faith and use their best efforts to complete a prompt and orderly separation, it being the intention of both Parties that **University Middle** shall remain

open and operating in its normal course in the event of such expiration or termination of this Agreement, in accordance with the following rights and obligations of the Parties:

- i. The Parties shall facilitate the transfer of data, written and electronic, not currently in the other's possession, and necessary to fulfil any state or federal requirements including, but not limited to, student records, financial reports, and other academic data.
 - ii. Board will provide **University Middle** with reasonable educational and operational transition assistance for a period of sixty (60) days after the termination of this Agreement.
- c. The Parties shall comply with all applicable federal and State of Tennessee privacy and data security laws pertaining to proper access, creation, modification, handling, storage, transfer, transmission, dissemination, sharing or destruction of confidential information, including, but not limited to, the Family Educational Rights and Privacy Act of 1974, as amended ("FERPA").
- d. To the extent not covered by sovereign, governmental, or official immunity under federal, state or municipal law or regulation, each party shall be responsible for all liabilities, losses, damages, claims, and expenses, including reasonable attorney's fees (incurred by either Party) that arise from its own actions and omissions in connection with this Agreement.
- e. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee, exclusive of its choice of law provisions.
- f. Per Tennessee law, neither party will knowingly utilize the services of illegal immigrants in the employment performance of this Agreement and will not knowingly utilize the services of any subcontractor, if permitted under this Agreement, who will utilize the services of illegal immigrants in the performance of this Agreement.
- g. The Parties shall not discriminate against any person on any basis prohibited by applicable law, including but not limited to race, color, national origin, religion, sex, age, veteran status or disability in the performance of this Agreement, including but not limited to, protections granted by Title VI, Title IX, and the Americans with Disabilities Act.
- h. The Parties shall not assign, subcontract, transfer (whether by assignment or novation) the work, services or any interest in this Agreement without the prior written consent of the other Party thereto.
- i. The Parties warrant that no fee has been nor shall be paid directly or indirectly to any officer or employee of the other party as wages, compensation or gifts in exchange for acting an officer, agent, employee, subcontractor, or consultant to that party in connection with this Agreement.
- j. The headings in this Agreement are for the convenience of the Parties only, and shall have no effect on the construction or interpretation of this Agreement.
- k. This Agreement shall not be changed, modified, or amended nor shall a waiver of its terms or conditions be deemed effective except by writing signed by both Parties. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof.
- l. By signing this Agreement, both Parties acknowledge that they have received the appropriate approvals from their governing agency.

Signed and executed as signified below.

SHELBY COUNTY BOARD OF EDUCATION

DocuSigned by:

Joris Ray

5F4B73D2963B49E...

Dr. Joris M. Ray, Interim Superintendent

2/20/2019 | 11:48 AM CST

Date

UNIVERSITY OF MEMPHIS

DocuSigned by:

M DAVID RUDD

4308F1D616624691...
Dr. M. David Rudd, President

2/20/2019 | 09:24 AM CST

Date

Shante K. Avant, Board Chair

Date

Approved as to
legal form and content:

Jennifer Ewin

4B2D3BA0481C47E...

General Counsel, Shelby County Schools